



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/463,740	06/05/95	VON BORSTEL	R 1331-143

NIXON AND VANDERHYE
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12M1/0108

EXAMINER

KUNZ, G
ART UNIT PAPER NUMBER

1211

DATE MAILED:

01/08/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 10-2-96

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 41 AND 58-67 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 41 AND 58-67 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

08/463,740
PTOL-326 (Rev. 10/95)

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Art Unit: 1211

Applicant's amendment C filed 10-2-96 has been received and entered into the record.

New claims 66 - 67 have been added. Therefore, claims 41 and 58 - 67 are now pending in the case.

Any 35 USC statutes not cited in this Office action can be found cited in full in a previous Office action.

The rejection of claim 65 under 35 USC 112, second paragraph, has been withdrawn because the amendment to the claim.

Claims 41 and 58 - 67 stand rejected under 35 USC 103 as being unpatentable over Von Borstel et al. (WO 89/03837) in view of Chu et al. (4,613,604). The applicant argues against this rejection on the grounds that Chu et al. teaches that uridine phosphorylase inhibitors prevent the degradation of the nucleoside analog and not the increase of free uridine. This argument has been fully considered but is not deemed persuasive. The motivation for combining an acylated uridine with a uridine phosphorylase inhibitor is either 1) to inhibit the degradation of the nucleoside analog as taught by Chu et al. or 2) to also inhibit the degradation of uridine, thus increasing the levels of free uridine as one of skill in the art would have understood simply from the definition of reaction catalyzed by uridine phosphorylase.

No claim is allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1211

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kunz, whose telephone number is (703) 308-4623. The examiner can be reached on Tuesday through Friday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kight, can be reached on (703) 308-0204. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.

Gary L. Kunz, Ph.D.
January 4, 1996

Gary L. Kunz
GARY L. KUNZ
PRIMARY EXAMINER
GROUP 1200